

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**DARRYL D GALLOW ET AL**

**CASE NO. 6:23-CV-00007**

**VERSUS**

**JUDGE DAVID C. JOSEPH**

**BRIDGESTONE AMERICAS TIRE  
OPERATIONS L L C ET AL**

**MAGISTRATE JUDGE CAROL B.  
WHITEHURST**

**ORDER**

Before the Court is Defendants' Motion to Strike Plaintiffs' Untimely Rebuttal Expert Reports. (Rec. Doc. 53). Plaintiffs opposed the Motion. (Rec. Doc. 55). Pursuant to Fed.R.C.P. 26(a)(2)(D)(ii):

*(D) Time to Disclose Expert Testimony.* A party must make these disclosures at the times and in the sequence that the court orders. Absent a stipulation or a court order, the disclosures must be made:

- (i) at least 90 days before the date set for trial or for the case to be ready for trial; or
- (ii) if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 26(a)(2)(B) or (C), within 30 days after the other party's disclosure.

Defendants contend, and Plaintiffs concede, that Plaintiff submitted the two rebuttal expert reports at issue approximately two weeks after the 30-day deadline. (Rec. Docs. 52 & 55). Thus, Defendants request that said reports and opinions

contained therein be stricken. In the alternative, Defendants request leave to provide sur-rebuttal expert reports in response to Plaintiffs' rebuttal expert reports.

Given that Defendants have not alleged any prejudice, and Discovery is not set to close until February 21, 2025 (Rec. Doc. 52), Defendants' Motion to Strike Plaintiffs' Untimely Rebuttal Expert Reports (Rec. Doc. 53) is hereby DENIED. However, Defendants are GRANTED leave to provide sur-rebuttal expert reports in response to Plaintiffs' rebuttal expert reports within **thirty (30) days** of this Order.

THUS DONE in Chambers, Lafayette, Louisiana on this 18<sup>th</sup> day of December, 2024.

A handwritten signature in black ink, appearing to read "Carol B. Whitehurst", written over a horizontal line.

CAROL B. WHITEHURST  
UNITED STATES MAGISTRATE JUDGE